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Applicant: Fabrizius et al
Appl. No.: 10/768,435
Filing Date: January 30, 2004
Title: SOYBEAN VARIETY XB06H04
Attorney Docket No.: 1793
Pub. No.: US 2004/0172696 A1
Pub. Date: September 2, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on October 14, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the Abstract on the front page of the publication contains errors.

No specific errors in the Abstract were identified by Applicant. The only error noted in the abstract by the undersigned is that "XB06H04" is misprinted as "XB06R04" in one instance.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The typographical error wherein "XB06H04" is misprinted as "XB06R04" in one instance is an Office error, but it is a minor typographical error which is understandable from reading the abstract and sentence in which the term is used, as terms are not read in a vacuum. The variety is identified ten (10) times in the abstract and the identifier is misprinted in one instance. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions should be addressed as follows:

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Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

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